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 Successor-By-Merger to EffectNet, Inc. and
 EffectNet, LLC*

UNITED STATES BANKRUPTCY COURT
 FOR THE SOUTHERN DISTRICT OF NEW YORK

In re:)	CHAPTER 11
)	Jointly Administered
WORLDCOM, INC., et al.,)	
)	
Reorganized Debtors.)	Case No. 02-13533 (AJG)
)	

**PARUS HOLDINGS, INC.'S DESIGNATION OF CONTENTS
 OF RECORD AND STATEMENT OF ISSUES ON APPEAL**

Pursuant to Federal Rule of Bankruptcy Procedure 8006, Appellant Parus Holdings, Inc., as successor by merger to EffectNet, Inc. and EffectNet, LLC ("Parus" and/or "Appellant"),¹ by its attorneys Foley & Lardner LLP, respectfully designates the following issues to be raised on appeal and items to be included in the record on appeal filed by Parus on October 19, 2007, from

¹ EffectNet merged into Parus on January 28, 2004.

the following orders or rulings of the bankruptcy judge for the United States Bankruptcy Court for the Southern District of New York (Honorable Arthur J. Gonzales) (the “Bankruptcy Court”): (a) the Order, docketed on October 11, 2007, partially granting and partially denying Debtors’ Motion for Summary Judgment and Motion to Strike Portions of Affidavits; (b) the Order, docketed on October 11, 2007, granting the Debtors’ Amended Motion for Partial Withdrawal of Claim Objection and Allowance of Resulting Claim; and (c) any other prior adverse orders or rulings.

STATEMENT OF ISSUES ON APPEAL

1. Did the Bankruptcy Court commit reversible error in granting summary judgment to Intermedia Communications, Inc. and MCI WorldCom Communications, Inc. based upon the record before the Bankruptcy Court by:

- a. Improperly interpreting the termination provisions and other material provisions in the Unified Communications Services General Agreement;
- b. Improperly applying the limitation of liability clause contained in the Unified Communications Services General Agreement;
- c. Improperly interpreting the effect of the March 12, 2002 and March 25, 2002 letters of Robert McConnell;
- d. Improperly holding that a recovery of “loss of bargain” contract damages, “benefit of the bargain” contract damages, or “expectation” contract damages each was barred by Section 11 of the Unified Communications Services General Agreement, which only precludes recovery of "incidental, indirect, special, punitive, consequential or similar damages of any kind";
- e. Improperly holding that Intermedia Communications, Inc. was liable only for damages for past due obligations as of termination, and not all damages accrued upon the total breach of the agreement, where the total breach preceded the termination;
- f. Improperly concluding that anticipatory repudiation requires a current breach rather than a manifestation of an intent to commit a future breach;

- g. Improperly holding that Intermedia Communications, Inc. was only liable for damages incurred in the months of December 2001 through March 2002;
- h. By improperly determining the number of payments remaining under the Unified Communications Services General Agreement;
- i. Improperly resolving on a summary judgment motion genuine questions of material fact on whether and when Intermedia Communications, Inc.'s actions, which precluded Intermedia Communications, Inc. from performing its obligations under the agreement, together with communications which indicated the intent not to perform the contract, amounted to an anticipatory repudiation of the parties' agreement;
- j. Improperly holding that the limitation of liability provision contained in Section 11 of the Unified Communications Services General Agreement was unambiguous; and
- k. Improperly refusing to allow parol evidence to be presented with respect to Section 11 of the Unified Communications Services General Agreement?

2. Did the Bankruptcy Court commit reversible error when it granted summary judgment to Intermedia Communications, Inc. with respect to Parus's claims for (a) unfair and deceptive trade practices, (b) breach of implied covenant of good faith and fair dealing, and (c) civil conspiracy?

3. Did the Bankruptcy Court commit reversible error when it granted summary judgment to MCI WorldCom Communications, Inc. with respect to Parus's claims for (a) civil conspiracy, (b) tortious interference with a contract, and (c) unfair and deceptive trade practices?

4. Did the Bankruptcy Court commit reversible error when it refused to afford Parus the opportunity for additional discovery prior to addressing Intermedia Communications, Inc. and MCI WorldCom Communications, Inc.'s summary judgment motion?

5. Did the Bankruptcy Court commit reversible error when it struck portions of the affidavits submitted by Parus in support of Parus's Response and Opposition to Intermedia

Communications, Inc. and MCI WorldCom Communications, Inc.'s Motion for Summary Judgment?

6. Did the Bankruptcy Court commit reversible error when it failed to consider both Parus's Motion for Relief Resulting from the Debtors' Spoliation of Evidence and Parus's Amended Motion for Relief Resulting from the Debtors' Spoliation of Evidence prior to deciding Intermedia Communications, Inc. and MCI WorldCom Communications, Inc.'s Motion for Summary Judgment?

DESIGNATION OF RECORD

Designation No.	Docket No.	Description
1.		Proof of Claim No. 9291 Filed by EffectNet, Inc. (Attached as <u>Exhibit A</u>) ²
2.		Proof of Claim No. 9293 Filed by EffectNet, Inc. (Attached as <u>Exhibit B</u>)
3.		Proof of Claim No. 11242, Replacing Claim No. 9291, Filed by EffectNet, Inc. (Attached as <u>Exhibit C</u>)
4.		Proof of Claim No. 11173, Replacing Claim No. 9293, Filed by EffectNet, Inc. (Attached as <u>Exhibit D</u>)
5.	11838	Debtors' Objection to All Proofs of Claim Filed by EffectNet, Inc. Which Is Now Merged Into Parus Holdings, Inc., Including, But Not Limited To, Claim Numbers 9291, 11242, 9293 and 11173
6.	12199	Response and Opposition of Parus Holdings, Inc. to Debtors' Objection To Proofs of Claim Filed By Effectnet, Inc.

² While all documents listed herein are part of the record, not all were not assigned a docket number. Such documents have been attached hereto as Exhibits.

7.	12744	Debtors' Initial Disclosures Pursuant to Fed. R. Bankr. P. 7026(a)(1) ([Mechanic's Liens] (Claim Nos. 9291, 9293, 11173 and 11242 filed by Parus Holdings, Inc.)
8.	13968	Debtors' First Amended Initial Disclosures Pursuant to Fed.R.Bankr.P. 7026(a)(1) (Claim Nos. 9291, 9293, 11173 and 11242 filed by Parus Holdings Successor-by-Merger to EffectNet, Inc. and EffectNet, LLC)
9.	15065	Amended Scheduling Order signed on 1/24/2005 regarding claim nos. 9291, 9293, 11173 and 11242 filed by Parus Holdings, Inc., successor-by-merger to EffectNet, Inc. and EffectNet, LLC.
10.	15332	Letter, dated February 22, 2005, to Judge Arthur J. Gonzalez from Kevin J. Smith requesting an informal conference, as required by Local Bankruptcy Rule 7007-1(b), regarding a discovery related issue
11.	15456	Letter, dated March 15, 2005, to Judge Gonzalez from Kevin J. Smith advising the Court that the parties have resolved their disagreement
12.	16030	Debtors' First Amended Objection to All Proofs of Claim Filed by EffectNet, Inc. Which is Now Merged Into Parus Holdings, Inc., Including, But Not Limited to Claim Numbers 9291, 9293, 11173 and 11242
13.	16045	Motion of Claimant, Parus Holdings, Inc., to Withdraw and/or Amend Deemed Admissions and to Serve Late Responses and Objections to Debtors' Discovery Requests in Connection with Debtors' Objections to Claims of Parus Holdings, Inc.
14.	16211	Debtors' Memorandum in Opposition to Claimant's Motion to Withdraw and/or Amend Deemed Admissions and to Serve Late Responses and Objections to Debtors' Discovery Requests in Connection with Debtors' Objections to the Claims of Parus Holdings, Inc.
15.	16220	Claimant Parus Holdings, Inc.'s Reply in Support of its Motion to Withdraw and/or Amend Deemed Admissions and to Serve Late Responses and Objections to Debtors' Discovery Requests in Connection with Debtors' Objections to the Claims of Parus Holdings, Inc.

16.	16247	Response and Opposition of Parus Holdings, Inc. to Debtors' First Amended Objection to all Proofs of Claim Filed by Effectnet, Inc
17.	16423	Parus Holdings, Inc.'s Motion to Compel Production of Responsive Documents, Motion to Extend Time for Discovery Deadlines
18.	16425	Declaration of Steven A. Wood in Support of Parus Holdings, Inc.'s Motion to Compel Production of Responsive Documents, Motion to Extend Time for Discovery Deadlines
19.	16426	Declaration Exhibits AA-FF to Declaration of Steven A. Wood
20.	16447	Statement /Amended Exhibits To Declaration Of Stephen A. Wood In Support Of Parus Holdings, Inc.'s Motion to Compel Production of Responsive Documents
21.	16645	Debtors' Motion for Summary Judgment Against Parus Holdings, Inc., Successor-By-Merger to EffectNet, Inc. and EffectNet, LLC
22.	16646	Memorandum of Law Memorandum in Support of Debtors' Motion for Summary Judgment Against Parus Holdings, Inc., Successor-By-Merger to EffectNet, Inc. and EffectNet, LLC
23.	16687	Debtors' Response and Opposition to Parus Holdings, Inc.'s Motion to Compel Production of Responsive Documents and to Extend Discovery Deadlines
24.	16715	Reply of Claimant, Parus Holdings, Inc., in Further Support of Its Motion to Compel Production of Responsive Documents and to Extend Discovery Deadlines
25.	17012	Letter, dated September 9, 2005, to Judge Gonzalez from Stephen A. Wood regarding response to letter filed by Debtors requesting an informal conference regarding a motion for summary judgment
26.	17280	Order Compelling Attendance of Parus Holdings, Inc at Settlement Conference
27.	17402	Debtors' Motion for Summary Judgment Against Parus Holdings, Inc., Successor-By-Merger to EffectNet, Inc. and EffectNet, LLC

28.	17406	Memorandum of Law in Support of Debtors' Motion for Summary Judgment Against Parus Holdings, Inc., Successor-By-Merger to EffectNet, Inc. and EffectNet, LLC
29.	17602	Parus Holdings, Inc.'s Response to Motion and Opposition to Debtors' Motion for Summary Judgment
30.	17603	Parus Holdings, Inc.'s Statement in Response and Opposition to Debtors' Statement of Undisputed Material Facts
31.	17604	Declaration of Robert S. Friedman in Support of Parus Holdings, Inc.'s Response and Opposition to Reorganized Debtors' Motion for Summary Judgment
32.	17605	Affidavit of Robert C. McConnell in Support of Parus Holdings, Inc.'s Response and Opposition to Debtors' Motion for Summary Judgment
33.	17606	Affidavit of Taj Reneau in Support of Parus Holdings, Inc.'s Response and Opposition to Debtors' Motion for Summary Judgment
34.	17628	Letter, dated November 23, 2005, to Arthur J. Gonzalez from Robert S. Friedman, requesting a conference to address Debtor's failure to meet discovery obligations, and opposing any stay of discovery
35.	17652	Reply Memorandum in Support of Debtors' Motion for Summary Judgment Against Parus Holdings, Inc., Successor-By-Merger to EffectNet, Inc. and EffectNet, LLC
36.	17653	Debtors' Motion to Strike Portions of Affidavits Submitted in Support of Claimant Parus Holdings, Inc.'s Response and Opposition to WorldCom's Motion for Summary Judgment
37.	17654	Debtors' Reply to Parus Holdings, Inc.'s Statement in Response and Opposition to Debtors' Statement of Undisputed Material Facts
38.	17668	Letter, dated December 6, 2005, to Judge Gonzalez from Robert S. Friedman regarding Parus' motion to compel and related discovery issues

39.	17691	Notice of Unconventional Filing: Transcript of Hearing on September 13, 2005 on Parus Holdings, Inc.'s Motion to Compel (Transcript attached as <u>Exhibit E</u>)
40.	17817	Parus Holdings, Inc.'s Response and Opposition to Debtors' Motion to Strike Portions of Affidavits Submitted in Support of Claimant Parus Holdings, Inc.'s Response and Opposition to WorldCom's Motion for Summary Judgment
41.	17880	Transcript of Hearing held on January 17, 2006, Re: WorldCom's Motion for Summary Judgment Against Parus Holdings, Inc., Successor-By-Merger to EffectNet, Inc. and EffectNet, LLC & Debtors' Motion to Strike Portions of Affidavits Submitted in Support of Claimant Parus Holdings, Inc.'s Response and Opposition to WorldCom's Motion for Summary Judgment
42.	17920	Transcript of Hearing held on August 9, 2005, Re: Motion by Parus Holdings, Inc.'s Motion to Compel Production of Documents and to Extend Discovery Deadlines
43.	18068	Notice of Unconventional Filing: Transcript of Hearing held on November 1, 2005, on Parus Holdings, Inc.'s Motion to Compel Production of Documents and to Extend Discovery Deadlines (Transcript attached as <u>Exhibit F</u>)
44.	18313	Letter, dated June 2, 2006, to Judge Arthur J. Gonzalez from Robert S. Friedman requesting a scheduling order or, in the alternative, an informal conference
45.	18338	Letter, dated June 16, 2006, to Judge Arthur J. Gonzalez from Allison M. Murdock requesting informal conference and responding to claimant's June 2, 2006 letter to Court
46.	18369	Letter, dated July 6, 2006, to Judge Arthur J. Gonzalez from Robert S. Friedman in response to Debtors' June 16, 2006 letter to the Court
47.	18424	Transcript of Hearing held on July 11, 2006 at 10:00 AM, Re: Pre-Motion Discovery Conference Re Claims Of Parus Holdings, Inc.
48.	18490	Parus Holdings, Inc.'s Motion to Stay Court's Ruling on Debtors' Motion for Summary Judgment Pending Discovery Regarding Spoliation

49.	18519	Letter, dated September 20, 2006, to Judge Arthur J. Gonzalez from Allison J. Murdock, Requesting Court to Strike Claimant's Motion to Stay for Failure to Comply with Local Rules Requiring Pre-Motion and/or Informal Conference
50.	18548	Notice of Withdrawal Of Parus Holdings, Inc.'s Motion To Stay Court's Ruling On Debtors' Motion For Summary Judgment Pending Discovery Regarding Spoliation
51.	18569	Letter, dated October 12, 2006, to Judge Arthur J. Gonzalez from Jill L. Murch, requesting informal conference regarding scheduling and location of court ordered depositions
52.	18576	Letter, dated October 18, 2006, to Judge Arthur J. Gonzalez from Allison J. Murdock in Response to Parus Holdings, Inc.'s October 12, 2006 Letter to Court Requesting Informal Conference
53.	18594	Transcript of Hearing Held on October 3, 2006 at 2:05 PM, Re: Conference RE: Parus Holdings, Inc. Claims
54.	18611	Letter, dated November 14, 2006, to Judge Arthur J. Gonzalez from Jill L. Murch, updating the Court regarding certain depositions ordered by the Court
55.	18615	Letter, dated November 14, 2006, to Judge Arthur J. Gonzalez from Allison J. Murdock, regarding 11/15/06 Informal Conference On Request For Extension Of Time To Respond To Parus Holdings, Inc. Discovery Requests
56.	18674	Debtor's Motion to Apply Bankruptcy Rule 7068 (Offer of Judgment) to the Proceedings on Claim Nos. 11242 (Replacing 9291) and 11173 (Replacing 9293)
57.	18689	Motion of Parus Holdings, Inc.'s for Relief Regarding the Debtors' Spoliation of Evidence
58.	18690	Memorandum of Law in Support of Parus Holdings, Inc.'s Motion for Relief Regarding the Debtors' Spoliation of Evidence
59.	18694	Debtors' Notice to Take Depositions 30(b)(6) of Parus Holdings, Inc.

60.	18697	Parus Holding Inc.'s Response in Opposition to Debtors' Motion to Apply Bankruptcy Rule 7068 (Offer of Judgment) to the Proceeding on Claim Nos. 11242 (Replacing 9291) and 11171 (Replacing 9293)
61.	18711	Letter, dated February 12, 2007, to Judge Arthur J. Gonzalez from Allison J. Murdock, Seeking Informal Conference To Compel Parus Holdings, Inc. To Appear For Rule 30(b)(6) Deposition
62.	18716	Letter, dated February 14, 2007, to Judge Arthur J. Gonzalez from Jill L. Murch, in Response to Debtors' February 12, 2007 Letter
63.	18732	Debtors' Reply to Parus Holdings, Inc.'s Response to Debtors' Motion to Apply Bankruptcy Rule 7068 (offer of Judgment) to the Proceedings on Claim Nos. 11242 (Replacing 9291) and 11173 (Replacing 9293)
64.	18740	Debtors' Motion to Compel Claimant Parus Holdings, Inc. To Appear For A Properly Noticed Rule 30(b)(6) Deposition
65.	18741	Memorandum of Law in Support of Debtors' Motion to Compel Claimant Parus Holdings, Inc. to Appear for a Properly Noticed Rule 30(b)(6) Deposition
66.	18762	Parus Holdings, Inc.'s Response in Opposition to the Debtors' Motion to Compel Claimant Parus Holdings, Inc. to Appear for a Properly Noticed Rule 30(B)(6) Deposition
67.	18788	Transcript Of Hearing Held On March 12, 2007 At 10:09 AM, Re: Motion By Debtors To Compel Claimant Parus Holdings Inc. To Appear For A Properly Noticed Rule 30(b) (6) Deposition; Motion By Debtors To Apply Bankruptcy Rule 7068 (Offer Of Judgment) To The Proceedings On Claim Nos. 11242 (Replacing 9291) And 11173 (Replacing 9293)
68.	18791	Transcript Of Hearing Held Of February 16, 2007 At 12:01 PM, Re: Discovery Conference Re Parus Holdings, Inc.
69.	18853	Opinion signed on 5/2/2007 Partially Granting and Partially Denying Debtors' Motion for Summary Judgment Against Parus Holdings, Inc., Successor-By-Merger to EffectNet, Inc. and EffectNet, LLC

70.	18891	Notice of Presentment of Proposed Order Partially Granting and Partially Denying Debtors' Motions for Summary Judgment and to Strike Portions of Affidavits Concerning Claims of Parus Holdings, Inc.
71.	18896	Letter, dated May 21, 2007, to Judge Arthur J. Gonzalez from Allison J. Murdock, regarding testimony of James Renforth
72.	18903	Transcript Of Hearing Held On May 15, 2007 At 2:03 PM, Re: Motion By Debtors To Apply Bankruptcy Rule 7068 (Offer Of Judgment) To The Proceedings On Claim Numbers 11242 And 11173; Motion Of Debtors To Compel Claimant Parus Holdings, Inc. To Appear For A Properly Noticed Rule 30(b) (6) Deposition
73.	18927	Parus Holdings, Inc.'s Objection to Debtors' Proposed Order Partially Granting and Partially Denying Debtors' Motion for Summary Judgment and Motion to Strike Portions of Affidavits Concerning Claim 11242 (Replacing 9291) Against MCI Worldcom Communications, Inc. and Claim 11173 (Replacing 9293) Against Intermedia Communications, Inc.
74.	18935	Amended Motion of Parus Holdings, Inc. for Relief Resulting from the Debtors' Spoliation of Evidence
75.	18936	Memorandum of Law in Support of Parus Holdings, Inc.'s Amended Motion for Relief Resulting from the Debtors' Spoliation of Evidence
76.	18974	Opposition to Parus Holdings, Inc.'s Amended Motion Seeking Spoliation Sanctions
77.	18975	Debtors' Motion for an Order Permitting Partial Withdrawal of Claim Objection, Allowance of Resulting Claim, and Reservation of Right to Re-File Claim Objection
78.	19032	Memorandum of Law in Response to Parus Holdings, Inc.'s Objection to Proposed Order Partially Granting and Partially Denying Debtors' Motion for Summary Judgment and Motion to Strike Portions of Affidavits
79.	19048	Transcript of Hearing Held on 7/10/07 at 10:12 a.m. Re: Status Conference; Amended Motion of Parus Holdings, Inc. for Relief Resulting from the Debtors' Spoliation of Evidence. Opposition Filed

80.	19054	Amended Motion to Allow Partial Withdrawal of Claim Objection to Parus Holdings, Inc.'s Proof of Claim No. 11173 (Replacing 9293), Allowing Resulting Claim, and Denying all Other Pending Motions As Moot
81.	19083	Parus Holdings, Inc.'s Limited Objection to Debtors' Amended Motion for an Order Permitting Partial Withdrawal of Claim Objection to Parus Holdings, Inc.'s Proof of Claim No. 11173 (Replacing 9293), Allowing Resulting Claim, and Denying All Other Pending Motions as Moot
82.	19095	Debtors' Reply Memorandum in Support of Amended Motion for an Order Permitting Partial Withdrawal of Claim Objection to PARUS HOLDINGS, INC.'S Proof of Claim No. 11173
83.	19113	Order signed on 10/3/2007 partially granting and partially denying debtors' motion for summary judgment and motion to strike portions of affidavits concerning claim 11242 (replacing 9291) against MCI WorldCom Communications, Inc. and claim 11173 (replacing 9293) against Intermedia Communications, Inc.
84.	19114	Order signed on 10/3/2007 granting debtors' amended motion for partial withdrawal of claim objection and allowance of resulting claim
85.		Transcript of hearing held on 05/22/2007 (Attached as <u>Exhibit G</u>)

Dated: October 29, 2007

Respectfully submitted,

By: /s/ Jill L. Murch

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